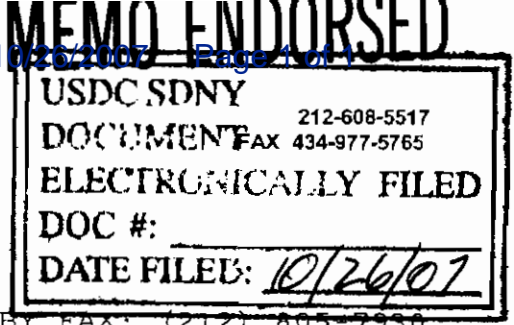


215 SPRUCE STREET  
CHARLOTTESVILLE, VA 22902



October 22, 2007

Hon. James C. Francis IV  
United States Magistrate Judge  
500 Pearl Street, Room 1960  
New York, NY 10007-1212

Re: Banno v. City of New York, et al.  
06 CV 2270 (KMK)

Dear Judge Francis:

I am writing to request that the Court enter an appropriate order to ensure compliance with Your Honor's direction to Mr. Mirro to produce medical documentation that defendant under cover officer badge #6216's father underwent heart surgery on July 19, the date that you ordered that he be deposed.

On Monday evening, July 16, we had a telephone conference with respect to that deposition at which time Mr. Mirro asked to adjourn the deposition based on having learned that afternoon that the officer's father would be operated on and that the defendant needed to be with his family. I agreed that would be a valid reason to adjourn the deposition, but questioned whether it was true in light of the fact that I had spoken to Mr. Mirro twice that afternoon and in each instance he stated that the defendant would not appear because it was his intention to appeal Your Honor's ruling with respect to whether defendant could appear behind a screen or otherwise in disguise. You then directed that Mr. Mirro provide evidence of the facts as represented to the Court. Mr. Mirro asked whether a letter from counsel would suffice and Your Honor said no and directed that medical documentation be provided.

It has now been more than three months and no such documentation has been provided. From then length of time, it appears that there is no intention to do so. I therefore request that Your Honor enter an order to ensure compliance with your direction including proof that Badge #6216 did not work on July 19 or the day after. //

Respectfully submitted,

  
Jeffrey E. Fogel

cc: James Mirro, Esq. (By Fax: (212) 788-9776)  
Rachel M. Kleinman, Esq.  
Jason J. Rozger, Esq.

*As discussed today, the documentation shall be provided by November 9, 2007.*

*10/26/07*  
*SO ORDERED.*  
*James C. Francis IV*  
*USMJ*